

**ASSEMBLY BILL**

**No. 993**

**Introduced by Assembly Member Shelley**

February 25, 1999

---

---

An act to add Chapter 10.5 (commencing with Section 2850) to Division 3 of the Fish and Game Code, relating to marine resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 993, as introduced, Shelley. Marine resources: Sea Life Conservation Act.

(1) Existing law designates specified lands and ocean waters as marine life refuges and prohibits the taking of fish and other forms of aquatic life within those refuges, except as specified.

This bill would enact the Sea Life Conservation Act. The bill would require the Department of Fish and Game to prepare, or by contract cause to be prepared, a study report and other relevant analyses and recommendations to guide the siting process and the development of the Sea Life Conservation Program established by the bill. The bill would require the department to convene a scientific study team to advise and assist in the preparation of the study report, as specified. The bill would require the department to submit a draft of the study report to the commission on or before January 1, 2001, and the final study report on or before April 1, 2001. The bill would require the department, on or before June 1, 2001, to convene in each biogeographical region, siting workshops composed of representatives of stakeholder groups with an

interest in marine managed areas (MMAs) in that region, to develop options for siting sea life reserve networks. The bill would require the siting workshops to submit their options to the study team for evaluation on or before December 1, 2001, which would make an initial determination of adequacy on or before January 1, 2002, and complete its evaluations and submit them to the commission on or before March 1, 2002.

The bill would require the commission, on or before May 1, 2002, after public hearings on a draft program plan, to adopt a Sea Life Conservation Program that would redesign and improve the management of California's MMA system. The goals of the plan would include, among other things, to ensure that California's MMAs have clearly defined objectives, effective management measures, and adequate enforcement. The bill would require the commission to submit the program to the Joint Committee on Fisheries and Aquaculture for review and comment. The bill would require the commission to consider all recommendations submitted by the joint committee.

The bill would require the program to include an expanded sea life reserve component, as specified, and would define "sea life reserve" as a marine managed area in which all extractive activities, including the taking of marine species, are prohibited.

The bill would authorize the department to enter into memoranda of understanding with appropriate public agencies to ensure implementation and enforcement of management measures to address threats to sea life and habitats in sea life reserves and other MMAs, including threats of water pollution.

The bill would prohibit the taking of a marine species in a sea life reserve for any purpose, except if taken under a scientific collecting permit issued by the department, as specified. Because other existing law would make a violation of this provision a crime, the bill would impose a state-mandated local program.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department to pay all necessary expenses incurred in carrying out the Fish and Game Code and any other law for the protection and



preservation of birds, mammals, reptiles, and fish, and to the commission to pay the compensation and expenses of the commissioners and employees of the commission.

This bill would make an appropriation by imposing new duties on the department and the commission payable from that fund.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 10.5 (commencing with  
2 Section 2850) is added to Division 3 of the Fish and Game  
3 Code, to read:

4

5 CHAPTER 10.5. SEA LIFE CONSERVATION ACT

6

7 2850. This chapter shall be known and may be cited  
8 as the Sea Life Conservation Act.

9 2851. The Legislature finds and declares all of the  
10 following:

11 (a) California's marine managed areas (MMAs) were  
12 established on a piecemeal basis rather than according to  
13 a coherent plan and sound scientific guidelines. Many of  
14 these MMAs lack clearly defined purposes, effective  
15 management measures and enforcement. As a result, the  
16 system creates the illusion of protection while falling far  
17 short of its potential to conserve living marine resources.

18 (b) California's extraordinary marine biological  
19 diversity is a vital asset to the state and nation. The  
20 diversity of species and ecosystems found in the state's  
21 ocean waters is important to public health and  
22 well-being, ecological health, and ocean-dependent  
23 industry.



(c) Coastal development, water pollution, and other human activities threaten the health of marine habitat and the biological diversity found in California's ocean waters. New technologies and demands have encouraged the expansion of fishing and other activities to formerly inaccessible marine areas that once recharged nearby fisheries. As a result, ecosystems throughout the state's ocean waters are being altered, often at a rapid rate.

(d) Fish and other sea life are a sustainable resource, and fishing is an important community asset. MMAs and sound fishery management are complementary components of a comprehensive approach to sustain marine habitats and fisheries.

(e) Because of the ad hoc and fragmented nature of California's MMAs, and the growing pressure of human activities on ocean resources, the current array of MMAs must be reformed by improving its management, revising MMAs, consolidating MMAs, and creating new MMAs, including, but not limited to, creating new sea life reserves.

(f) Understanding of the impacts of human activities and the processes required to sustain the abundance and diversity of marine life is limited. The designation of certain areas as sea life reserves can help expand our knowledge by providing baseline information and improving our understanding of ecosystems where minimal disturbance occurs.

(g) Sea life reserves are an essential element of an MMA system because they protect habitat and ecosystems, conserve biological diversity, provide a sanctuary for fish and other sea life, enhance recreational and educational opportunities, provide a reference point against which scientists can measure changes elsewhere in the marine environment, and may help rebuild depleted fisheries.

(h) For all of the above reasons, it is necessary to modify the existing collection of MMAs to ensure that it is designed and managed according to clear, conservation-based goals and guidelines and that it includes more sea life reserves.

1 2852. The following definitions govern the  
2 construction of this chapter:

3 (a) “Adaptive management” means a management  
4 policy that seeks to improve management of biological  
5 resources, particularly in areas of scientific uncertainty,  
6 by designing program actions as tools for learning.  
7 Actions shall be designed and carried out as experiments  
8 so that they will provide useful information for future  
9 actions, and monitoring and evaluation shall be  
10 emphasized.

11 (b) “Area of Special Biological Significance” (ASBS) is  
12 an ocean area into which the State Water Resources  
13 Control Board, through its California Ocean Plan,  
14 prohibits the discharge of waste.

15 (c) “Biogeographical regions” refers to the following  
16 oceanic or near shore areas, seaward of the mouth of  
17 coastal rivers, with distinctive biological characteristics:

18 (1) The area extending south from Point Conception.

19 (2) The central region between Point Conception and  
20 Cape Mendocino.

21 (3) The area extending north from Cape Mendocino.

22 (d) “MMA” means a marine managed area seaward of  
23 the mouth of a coastal river, including any area of  
24 intertidal or subtidal terrain, together with its overlying  
25 water and associated flora, fauna, and historical and  
26 cultural features, that has been reserved by law or other  
27 effective means to protect part or all of the enclosed  
28 environment. MMAs include sea life reserves and areas  
29 that allow for specified commercial and recreational  
30 activities, including fishing for certain species but not  
31 others, fishing with certain practices but not others, and  
32 kelp harvesting.

33 (e) “Sea life reserve” means a marine managed area  
34 in which all extractive activities, including the taking of  
35 marine species, are prohibited. The area, while being  
36 open to the public for managed enjoyment and study,  
37 shall be maintained to the extent practicable in an  
38 undisturbed and unpolluted state.

1 2853. (a) The Legislature finds and declares that  
2 there is a need to reexamine and redesign California's  
3 MMA system to increase its coherence and effectiveness.

4 (b) To improve the design and management of that  
5 system, the commission, pursuant to Section 2859, shall  
6 adopt a Sea Life Conservation Program, which shall have  
7 all of the following goals:

8 (1) To protect the natural diversity and abundance of  
9 sea life, and the structure, function, and integrity of  
10 marine ecosystems.

11 (2) To ensure that California's MMAs have clearly  
12 defined objectives, effective management measures, and  
13 adequate enforcement.

14 (3) To ensure that the state's MMAs are designed and  
15 managed, to the extent possible, as a network.

16 (4) To help rebuild depleted sea life populations and  
17 sustain them.

18 (5) To improve recreational, educational, and study  
19 opportunities provided by marine ecosystems that are  
20 subject to minimal human disturbance, and to manage  
21 these uses in a manner consistent with protecting  
22 biodiversity.

23 (c) The program may include areas with various levels  
24 of protection, and shall include all of the following  
25 elements:

26 (1) An expanded sea life reserve component  
27 consistent with the guidelines in subdivision (c) of  
28 Section 2859.

29 (2) Specific identified objectives, and management  
30 and enforcement measures, for all MMAs in the system.

31 (3) Provisions for monitoring, research, and  
32 evaluation at selected sites to facilitate adaptive  
33 management of MMAs and ensure that the system meets  
34 the goals stated in the act.

35 (4) Provisions for educating the public about MMAs,  
36 and for administering and enforcing MMAs in a manner  
37 that encourages public participation.

38 (5) A petition process for the establishment of new  
39 MMAs.

1 2854. (a) The department shall prepare, or by  
2 contract shall cause to be prepared, a study report and  
3 other relevant analyses and recommendations to guide  
4 the siting process and the development of the program  
5 required pursuant to Section 2859. In order to take full  
6 advantage of scientific expertise on MMAs, the  
7 department shall convene a scientific study team to  
8 advise and assist in the preparation of the study report, or  
9 hire a contractor with relevant experience to convene  
10 such a team.

11 (1) The study team members shall have expertise in  
12 marine managed areas. The members shall also be  
13 familiar with underwater ecosystems found in California  
14 waters, with the biology and habitat requirements of  
15 major species groups in the state's marine waters, and  
16 with water quality and related issues.

17 (2) The study team shall be composed of the following  
18 individuals:

19 (A) Staff from the department and the Department of  
20 Parks and Recreation, to be designated by each of those  
21 departments.

22 (B) Five to eight members who shall be scientists and  
23 social scientists.

24 (3) The department may engage other experts to  
25 contribute to the study, including scientists, geographic  
26 information system (GIS) experts, individuals  
27 knowledgeable about the state's underwater ecosystems,  
28 the history of fishing effort or MMA management, or  
29 other relevant subjects, and other appropriate personnel  
30 at the department and other state agencies. The study  
31 team shall use the best available information in preparing  
32 the study report, and shall consider and, as appropriate,  
33 incorporate the findings of the department, other  
34 agencies, and scientists regarding the manner in which to  
35 establish a sound system of MMAs.

36 (b) The department, in carrying out this section, shall  
37 solicit comments and advice for the study report from  
38 stakeholders with an interest in MMAs, on issues  
39 including, but not limited to, the following:

1 (1) Practical information on the marine environment  
2 and the relevant history of fishing, other resource uses,  
3 and water pollution in the state's coastal waters.

4 (2) Socioeconomic and environmental impacts of  
5 various options.

6 (3) Design of monitoring and evaluation activities.

7 (4) Methods to encourage public participation in the  
8 management of the state's MMAs.

9 2855. The department shall prepare the study report  
10 called for in Section 2854 using readily available  
11 information, organizing the contents, to the extent  
12 possible, by biogeographical region. In conducting the  
13 analysis, the study team shall use and build upon the  
14 findings of the Sea Grant survey of protected areas in  
15 California waters, which is entitled "California's Marine  
16 Protected Areas," the Department of Parks and  
17 Recreation's "California Underwater Parks and Reserves  
18 2000 Draft Plan," and other relevant materials. The study  
19 report shall include all of the following components:

20 (a) An analysis of the state's current MMAs and  
21 recommendations as to whether any specific MMA  
22 should be consolidated, expanded, abolished, or managed  
23 differently so that, taken as a group, the MMAs best  
24 achieve the goals of Section 2853.

25 (b) Recommendations for the types of habitat that  
26 should be represented in the sea life reserves system.  
27 Maps illustrating the general location and extent of the  
28 major types of marine habitat and identification of the  
29 species or species groups that these habitats support. The  
30 habitat types described on the maps shall include, but not  
31 be limited to, rocky reefs, intertidal zones, sandy or soft  
32 ocean bottoms, underwater pinnacles, sea mounts, kelp  
33 forests, submarine canyons, and seagrass beds. It is the  
34 intent of the Legislature that the department use  
35 relevant available information, including data  
36 transferred by the department from existing maps of  
37 California's marine waters to geographic information  
38 systems, to identify the location and extent of major types  
39 of habitat in each of the state's marine biogeographical  
40 regions.



1 (c) A description of the condition of marine habitats in  
2 each of the biogeographical regions.

3 (d) An identification of select species or groups of  
4 species likely to benefit from sea life reserves or other  
5 MMAs, and the extent of their marine habitat, with  
6 special attention to marine breeding and spawning  
7 grounds.

8 (e) An identification of oceanographic features, such  
9 as current patterns, upwelling zones, and other factors  
10 that significantly affect the distribution of the fish or  
11 shellfish and their larvae.

12 (f) Recommendations for additional guidelines to  
13 supplement those in subdivision (c) of Section 2859,  
14 including the following:

15 (1) Recommendations for interim milestones, for the  
16 period from 2002 to 2012, for phasing in the designation  
17 of an appropriate percentage or range of percentages of  
18 the state's ocean waters as sea life reserves, in order to  
19 accomplish the goals and guidelines of this chapter. The  
20 full phasing-in period may be up to 20 years.

21 (2) Recommendations regarding the minimum size of  
22 individual sea life reserves needed to accomplish the  
23 various goals set forth in Section 2853.

24 (g) Recommendations for monitoring, research and  
25 evaluation in selected areas, including existing and  
26 long-established MMAs, to assist in adaptive management  
27 of the MMA network, taking into account existing and  
28 planned research and evaluation efforts.

29 (h) Recommendations for management and  
30 enforcement measures, system-wide or specific to the  
31 type of site, for the MMA network, that would achieve the  
32 goals of this chapter.

33 (i) Recommendations for improving the effectiveness  
34 of enforcement practices, including, to the extent  
35 practicable, the increased use of advanced technology  
36 surveillance systems.

37 2856. In conducting the study and preparing the  
38 report, the department shall confer, to the extent  
39 feasible, with the commission, the Pacific Fishery  
40 Management Council, the National Marine Fisheries

1 Service, the U.S. Geological Survey's national biological  
2 survey, with staff from national marine sanctuaries off  
3 California, and with Sea Grant researchers, marine  
4 advisers, and state and national parks personnel.

5 2857. (a) On or before January 1, 2001, the  
6 department shall submit to the commission a draft of the  
7 study report prepared pursuant to Section 2854.

8 (b) On or before April 1, 2001, after public hearings  
9 and appropriate modifications of the draft report, the  
10 department shall submit the final study report to the  
11 commission. The commission shall adopt a final report on  
12 or before May 1, 2001.

13 2858. On or before June 1, 2001, the department shall  
14 convene, in each biogeographical region, siting  
15 workshops composed of representatives of stakeholder  
16 groups with an interest in MMAs in that region, to  
17 develop options for siting sea life reserves and other  
18 MMAs in that region. The siting options shall be  
19 consistent with the goals of Section 2853 and the  
20 guidelines of Section 2859.

21 (a) In each region, the siting workshops may produce  
22 recommendations for creating new MMAs that will  
23 achieve either or both of the following objectives:

24 (1) Protection of habitat by prohibiting potentially  
25 damaging fishing practices, which may include  
26 prohibiting the use of certain gear types or other activities  
27 within the MMA boundary or prohibiting the selective  
28 removal of functionally important parts of an ecosystem.

29 (2) Enhancement of a particular species or group of  
30 species, by prohibiting or restricting fishing for that  
31 species or group within the MMA boundary.

32 (b) In each region, the siting workshops shall produce  
33 recommended options for siting sea life reserve networks,  
34 consistent with the guidelines in subdivision (c) of  
35 Section 2859.

36 (c) The study team shall serve as advisors to the  
37 process of developing siting options, and, once those  
38 options have been prepared, shall evaluate whether each  
39 option meets the goals and guidelines of this chapter.



1 (d) The siting workshops shall submit their options to  
2 the study team for evaluation on or before December 1,  
3 2001. The study team shall make an initial determination  
4 of adequacy on or before January 1, 2002, and complete  
5 its evaluations and submit them to the commission on or  
6 before March 1, 2002.

7 2859. (a) On or before May 1, 2002, the commission,  
8 after public hearings on a draft program plan, shall adopt  
9 a Sea Life Conservation Program, pursuant to subdivision  
10 (b), that will redesign and improve the management of  
11 California's MMA system.

12 (b) In adopting the program, the commission shall  
13 consider and, to the extent feasible, incorporate the  
14 recommendations of the final study report and shall select  
15 siting options from among those options that meet the  
16 requirements of Section 2858. The program shall be  
17 consistent with the goals, and contain the elements,  
18 identified in Section 2853. In revising existing MMAs or  
19 adopting new ones, the commission shall consider the  
20 impact of the MMAs on effective implementation of  
21 existing statutory and regulatory measures, including  
22 existing fishery management plans. The commission may  
23 designate some reserves, or some purposes of reserves, as  
24 experimental.

25 (c) The program shall include an expanded sea life  
26 reserve component designed and managed according to  
27 the following guidelines:

28 (1) Each sea life reserve shall have clearly identified  
29 goals, objectives, and expectations.

30 (2) Each sea life reserve shall encompass a wide  
31 variety of marine habitat types and communities, across  
32 a range of depths and environmental conditions in each  
33 biogeographical region.

34 (3) Similar types of marine habitats and communities  
35 shall be replicated in more than one sea life reserve in  
36 each biogeographical region.

37 (4) The system shall have a network design. It shall  
38 include representative habitats and consist of individual  
39 sea life reserves that may serve varied primary purposes

1 while collectively achieving the overall goals and  
2 guidelines of this chapter.

3 (5) The program shall aim, over time, to include sea  
4 life reserves of sufficient size, number, and location so  
5 that sea life populations within the network will be  
6 self-sustaining.

7 (6) The recommendations in subdivision (f) of Section  
8 2855, regarding milestones for the size of the sea life  
9 reserve network and minimum sizes, shall serve as  
10 additional guidelines once the commission has adopted  
11 the final study report.

12 (d) Notwithstanding Section 7550.5 of the  
13 Government Code, upon the commission's adoption of  
14 the program, the commission shall submit the program,  
15 including sea life reserve and other MMA designations, to  
16 the Joint Committee on Fisheries and Aquaculture for  
17 review and comment. Upon receipt of the plan, the joint  
18 committee shall have 60 days to review the plan and to  
19 submit written recommendations to the commission  
20 regarding the plan. The joint committee shall only submit  
21 a recommendation to the commission if a majority of the  
22 members agree to that recommendation. The  
23 commission shall consider all recommendations  
24 submitted by the joint committee and may amend the  
25 program to incorporate the recommendations. If the  
26 commission does not incorporate any recommendations  
27 submitted by the joint committee, the commission shall  
28 set forth, in writing, its reasons for not incorporating that  
29 recommendation.

30 2860. If any siting workshop fails to produce a single  
31 adequate option, the study team shall prepare one or  
32 more siting options for sea life reserves and other MMAs  
33 in that biogeographical region that meet the goals and  
34 guidelines of this chapter. The study team shall  
35 commence this siting process on or before January 1, 2002,  
36 and submit options to the commission on or before March  
37 1, 2002.

38 2861. (a) Sixty days after adopting the program  
39 pursuant to Section 2857, the commission may adopt  
40 regulations to guide implementation and management of

1 the MMA network. The department shall implement and  
2 enforce this chapter, including the prohibition on taking  
3 marine species in sea life reserves and restrictions applied  
4 in other MMAs in coordination with its enforcement of  
5 fishery regulations.

6 (b) The department may enter into memoranda of  
7 understanding with appropriate public agencies, which  
8 may include the Department of Parks and Recreation,  
9 the California Coastal Commission, the State Water  
10 Resources Control Board, regional water quality control  
11 boards, the National Marine Fisheries Service, the Pacific  
12 Fishery Management Council, and the National Marine  
13 Sanctuary Program, to ensure implementation and  
14 enforcement of management measures to address threats  
15 to sea life and habitats in sea life reserves and other  
16 MMAs, including threats of water pollution. Memoranda  
17 entered into pursuant to this subdivision shall be carried  
18 out within the existing authority of the agencies that are  
19 a party to the agreement. Nothing in this subdivision is  
20 intended to confer any additional authority on any  
21 agency that is a party to an agreement. It is the intent of  
22 the Legislature to provide sea life reserves with the water  
23 quality protections provided for an ASBS.

24 (c) The memoranda of understanding entered into  
25 pursuant to subdivision (b) shall include agreements with  
26 the State Water Resources Control Board and regional  
27 water quality control boards to apply and enforce the  
28 ocean plan requirements in existing ASBSs that are part  
29 of the program adopted pursuant to this section. It may  
30 include delegation of authority to the Department of  
31 Parks and Recreation for management of any MMAs,  
32 including, but not limited to, areas in or adjacent to state  
33 parks.

34 (d) The commission shall make recommendations to  
35 the State Water Resources Control Board for the  
36 designation of other MMAs as ASBSs, which shall be  
37 enforced under similar agreements once designated.

38 (e) The commission shall oversee coordination of  
39 monitoring, evaluation, and research activities related to  
40 the MMA system, using existing activities and expertise of

1 the department to the extent feasible. The commission  
2 may appoint a scientific advisory group to assist its  
3 coordinating efforts and to provide ongoing advice  
4 regarding, and oversight of, the MMA system.

5 (f) Upon adoption of the program specified in Section  
6 2859, the commission may abolish or rename MMA  
7 designations, if the abolishment or renaming of the MMA  
8 designation is consistent with the program and this  
9 chapter, and not otherwise prohibited by law. The  
10 commission may regulate commercial and recreational  
11 fishing and any other taking of marine species in MMAs.

12 (g) Notwithstanding any other provision of this code,  
13 the taking of a marine species in a sea life reserve is  
14 prohibited for any purpose, including recreational and  
15 commercial fishing, except that the commission may  
16 authorize the taking of a marine species for scientific  
17 purposes, consistent with the purposes of this chapter,  
18 under a scientific collecting permit issued by the  
19 department.

20 2862. (a) The commission may at any time, in  
21 response to a petition from the department or any other  
22 interested party, filed pursuant to paragraph (5) of  
23 subdivision (c) of Section 2853, designate a sea life reserve  
24 or other MMA that is compatible with the goals and  
25 guidelines of this chapter. The commission shall act on a  
26 petition within six months of its submission, and explain  
27 in writing any decision to reject, accept, or modify a  
28 proposal.

29 (b) Nothing in this chapter shall restrict any existing  
30 authority of the department or the commission to make  
31 any changes to improve the management or design of  
32 existing MMAs prior to the operative date of this section.  
33 The commission may abbreviate the study and siting  
34 process to account for equivalent activities that have  
35 taken place in any biogeographical region before  
36 enactment of this chapter.

37 2863. The department shall use monitoring and  
38 research results to develop recommendations to the  
39 commission for new designations of MMAs, including sea  
40 life reserves, and for changes in the management of

1 existing MMAs, as needed to achieve the goals stated in  
2 Section 2853. The commission shall review the MMA  
3 system and consider new designations and changes in  
4 management measures at least every five years, erring on  
5 the side of protection when information is uncertain.

6 SEC. 2. No reimbursement is required by this act  
7 pursuant to Section 6 of Article XIII B of the California  
8 Constitution because the only costs that may be incurred  
9 by a local agency or school district will be incurred  
10 because this act creates a new crime or infraction,  
11 eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section  
13 17556 of the Government Code, or changes the definition  
14 of a crime within the meaning of Section 6 of Article  
15 XIII B of the California Constitution.

